

# Exhibit 47

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

P.C. RICHARD & SON LONG ISLAND  
CORPORATION; MARTA COOPERATIVE  
OF AMERICA, INC; and ABC  
APPLIANCE, INC.,

Plaintiffs,

v.

HITACHI, LTD., et al.,

Defendants.

P.C. RICHARD & SON LONG ISLAND  
CORPORATION; MARTA COOPERATIVE  
OF AMERICA, INC; and ABC  
APPLIANCE, INC.,

Plaintiffs,

v.

TECHNICOLOR SA (f/k/a THOMSON SA), et al.,

Defendants.

Case No. 12-cv-02648

Master File No. 3:07-cv-05944-SC

MDL No. 1917

Case No. 13-cv-05725-SC

Master File No. 3:07-cv-05944-SC

MDL No. 1917

**REPORT OF ALAN S. FRANKEL, Ph.D.**

April 15, 2014

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## **1. Introduction**

### **1.1. Assignment**

1. Plaintiffs P.C. Richard & Son Long Island Corporation (“P.C. Richard”), MARTA Cooperative of America, Inc. (“MARTA”), and ABC Appliance, Inc., d/b/a ABC Warehouse (“ABC Appliance”) (together “Plaintiffs”) purchased “CRT Products” – computer monitors and televisions that contained CRTs. Plaintiffs allege that the Defendants and alleged co-conspirators colluded in setting prices of cathode ray tubes (“CRTs”) and that this caused Plaintiffs to pay higher prices for CRT Products than they would have paid absent the conspiracy.<sup>1</sup>

2. P.C. Richard is a privately owned New York company with its headquarters in Farmingdale, New York.<sup>2</sup> P.C. Richard has operated for over 100 years and opened its first store in Bensonhurst, Brooklyn in 1909.<sup>3</sup> By 2005, P.C. Richard operated 49 stores in New York and New Jersey and was reportedly the country’s largest family-owned and -operated appliance and consumer electronics store chain.<sup>4</sup> During the alleged conspiracy, P.C. Richard operated retail stores that sold electronics, appliances, and other products, including CRT Products.<sup>5</sup> P.C.

<sup>1</sup> See, e.g., First Amended Complaint, P.C. Richard & Son Long Island Corporation; MARTA Cooperative of America, Inc.; and ABC Appliance, Inc. v. Hitachi, Ltd., et al, October 3, 2013, ¶88. The conclusions and computations that I present in this report would either be unaffected by changes to the current Defendants and co-conspirators or could be modified through simple adjustments as described in this report to account for such changes.

<sup>2</sup> Deposition of Plaintiff P.C. Richard & Son Long Island Corporation Pursuant to Rule 30(b)(6), November 12, 2013, (“P.C. Richard Dep.”), p. 45.

<sup>3</sup> P.C. Richard, “Our History”, available at: <http://www.pcrichard.com/our-company/history>.

<sup>4</sup> “Beating the Odds: How PC Richard & Son, the largest privately held appliance and electronics retailer in the country, continues to thrive through 100 years and four generations,” Growing Your Business, PriceWaterhouseCoopers (2010), available at: [http://www.pwc.com/en\\_US/us/private-company-services/assets/gyb-vol-61-beating-the-odds.pdf](http://www.pwc.com/en_US/us/private-company-services/assets/gyb-vol-61-beating-the-odds.pdf); “A.J. Richard, 95, Tinkerer Who Built Appliance Chain, Dies,” New York Times, January 1, 2005, available at:

[http://www.nytimes.com/2005/01/01/business/01richard.html?\\_r=0](http://www.nytimes.com/2005/01/01/business/01richard.html?_r=0).

<sup>5</sup> P.C. Richard Dep., pp. 19-20.

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Richard purchased all of those CRT Products from its headquarters in New York from manufacturers operating in the United States and received shipment of those products at warehouses it operated.<sup>6</sup> Essentially all negotiations for prices of CRT Products were conducted from P.C. Richard's Farmingdale, New York headquarters and purchase orders were issued from that same location.<sup>7</sup>

3. ABC Appliance is a privately owned Michigan company headquartered in Pontiac, Michigan.<sup>8</sup> ABC Appliance opened its first store in 1964 and operates stores under the names ABC Warehouse and Hawthorne Appliance and Electronics. By 1994, there were 25 stores in the ABC Warehouse chain.<sup>9</sup> ABC Appliance sold CRT Products at retail stores it operated in Michigan, Ohio, and Indiana.<sup>10</sup> ABC Appliance negotiated its purchases of CRT Products from its corporate headquarters in Pontiac, Michigan and issued purchase orders for CRT Products from that location.<sup>11</sup> ABC Appliance purchased CRT Products from manufacturers operating in the United States,<sup>12</sup> and those products were shipped to a single ABC Appliance warehouse.<sup>13</sup>

4. During the alleged conspiracy, MARTA (Metropolitan Appliance Radio and Television Association) was a Michigan corporation with headquarters in Scottsdale, Arizona.<sup>14</sup> MARTA operated as a not-for-profit cooperative buying group and served appliance and

<sup>6</sup> P.C. Richard Dep., pp. 41-42, 99, 140.

<sup>7</sup> P.C. Richard Dep., pp. 137-140, 144-145.

<sup>8</sup> Funding Universe, ABC Appliance, Inc. History, <http://www.fundinguniverse.com/company-histories/abc-appliance-inc-history/>.

<sup>9</sup> Funding Universe, ABC Appliance, Inc. History, <http://www.fundinguniverse.com/company-histories/abc-appliance-inc-history/>.

<sup>10</sup> Deposition of Plaintiff ABC Appliance, Inc., d/b/a ABC Warehouse Pursuant to Rule 30(b)(6), August 23, 2013 ("ABC Dep."), pp. 22, 51.

<sup>11</sup> ABC Dep., pp. 143, 151.

<sup>12</sup> ABC Dep., p. 160.

<sup>13</sup> ABC Dep., p. 109.

<sup>14</sup> Deposition of Robert Thompson, as Corporate Representative of MARTA Cooperative of America, Inc., February 14, 2014 ("MARTA Dep."), p. 40..

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electronics retailers.<sup>15</sup> Altogether, MARTA had from approximately 50 to 100 member retailers from around the United States that sold merchandise from one or more of MARTA's four main product groups – appliances, electronics, bedding, and furniture.<sup>16</sup> MARTA's members were located within the United States; they issued purchase orders to various manufacturers for CRT Products, and these manufacturers then transmitted the orders to MARTA for review.<sup>17</sup> After MARTA agreed to purchase the CRT Products referenced on the orders, the manufacturers shipped the CRT Products directly to the MARTA members.<sup>18</sup> The manufacturers then sent the invoices to MARTA, which paid the invoices.<sup>19</sup> In 2006, MARTA merged into Brand Source, which in turn changed its name to Resource Plus in 2010.<sup>20</sup>

5. I have been asked by counsel for Plaintiffs to: (1) calculate damages under the assumption that the Defendants are found to be liable in this litigation; (2) assume that the alleged conspiracy resulted in anticompetitive overcharges for CRTs – the tubes incorporated into the CRT Products purchased by Plaintiffs – as determined by Dr. James McClave, another expert retained by Plaintiffs; (3) compute damages to account for the possibility that some overcharges resulting from the conspiracy might not be recoverable to the extent that they reflect CRTs manufactured by non-conspirators; and (4) calculate damages for Plaintiffs' "direct" purchases of CRT Products from conspirators or their affiliates separately from its "indirect" purchases of CRT Products from other suppliers.

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<sup>15</sup> MARTA Dep., p. 46.

<sup>16</sup> MARTA Dep., pp. 46, 60.

<sup>17</sup> MARTA Dep., pp. 81-82, 84-86.

<sup>18</sup> MARTA Dep., pp. 85, 87-89.

<sup>19</sup> MARTA Dep., pp. 85, 87.

<sup>20</sup> "MARTA Changes Name to Resource Plus," CE Pro, March 5, 2010, available at: [http://www.cepro.com/article/marta\\_changes\\_name\\_to\\_resource\\_plus/](http://www.cepro.com/article/marta_changes_name_to_resource_plus/).

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#### **4.2. Plaintiffs' Unit Purchases of CRT Products**

##### **4.2.1. Analysis of Plaintiffs' Database Records**

36. Plaintiffs have provided me with all of their available invoice database records covering the alleged conspiracy period, and I have extracted records for identifying purchases of individual models of CRT Products (TVs and monitors). ABC Warehouse and P.C. Richard possess detailed invoice records spanning that entire period. MARTA has invoice records available since 1998, which I supplemented with annual total purchase data that MARTA possesses for years ending July 1997 and July 1998.<sup>43</sup> I further supplement MARTA purchase records for the period prior to August 1996 with available data produced by Defendants (summarized in Exhibit 16d).

37. Exhibit 15 lists the CRT Product vendors appearing in Plaintiffs' data that Plaintiffs contend represent "direct" purchases as defined or to be defined legally. I designate CRT Products purchased from any other vendors to be "indirect." Exhibits 16a-f show, respectively, ABC Warehouse unit purchases of TVs and Monitors, MARTA purchases of TVs and the summary of Defendant data showing sales to MARTA, and P.C. Richard purchases of TVs and monitors.

##### **4.2.2. Matching CRT Product Sizes to CRT Sizes**

38. TV and monitor purchases are tracked by size and are matched to the appropriate CRT size. Monitors and the CDTs incorporated within each monitor are generally the same size. Thus, the major CDT sizes are the same as the major monitor sizes: 14", 15", 17", and 19" (and 21" to a lesser extent). Stated TV screen sizes are typically one inch smaller

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<sup>43</sup> I allocate all of those MARTA annual unit totals to the last quarter of those fiscal years. I do not possess data concerning MARTA purchases prior to August 1996.

## Exhibit 15 - Vendors Designated as "Direct" Purchases

Plaintiff	Conspirator	Direct Vendor Names Appearing in Data
ABC Warehouse	Daewoo	DAE
	Hitachi	HTC
	LGE	GOL
	Mitsubishi	MIT NEC
	Panasonic	JVC PAN QUA
	Philips	MAG PHL
	Samsung	SAM SSG
	Toshiba	TOS
	Thomson	RCA
MARTA	Zenith	ZENITH
	Hitachi	HITACHI
	LGE	LG ELECTRONICS USA
	Panasonic	JVC PAN PANASONIC COMPANY WEST PANASONIC-C PANASONIC-E PANASONIC-W
	Philips	PHILIPS PHILIPS CONSUMER
	Samsung	SAM SAMSUNG ELECTRONICS
	Toshiba	TOSHIBA
	Thomson	THOMPSON
	Zenith	ZENITH
PC Richard	Daewoo	DAEWOO ELECTRONICS CORPORATION
	Hitachi	HITACHI
	LGE	GOLDSTAR L G ELECTRONICS
	Mitsubishi	MITSUBISHI NEC COMPUTERS PACKARD BELL
	Panasonic	JVC PANASONIC TV/VIDEO QUASAR TV
	Philips	MAGNAVOX PHILIPS CONSUMER ELECTRONICS
	Samsung	SAMSUNG
	Toshiba	TOSHIBA TOSHIBA COMPUTERS
	Thomson	THOMSON ELEC (GE -VID/TV) THOMSON ELEC (GE-AUD/PHONES) THOMSON ELEC (PROSCAN) THOMSON ELEC (RCA-VID/TV)
	Zenith	ZENITH DIST